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Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Concluding observations on the second periodic report of the Czech Republic*

1. The Committee on Economic, Social and Cultural Rights considered the second periodic report of the Czech Republic on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/CZE/2) at its 19th and 20th meetings (E/C.12/2014/SR.19 and 20), held on 9 May 2014, and adopted, at its 40th meeting (E/C.12/2014/SR.40), held on 23 May 2014, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the second periodic report of the Czech Republic as well as the written replies to the list of issues (E/C.12/CZE/Q/2/Add.1) and the detailed statistical data contained therein. The Committee also welcomes the opportunity to engage with the State party's high level and inter-ministerial delegation and expresses appreciation for the frank and constructive dialogue.

B. Positive aspects

3. The Committee welcomes the State party's ratification of:

(a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 26 August 2013;

(b) The Convention on the Rights of Persons with Disabilities, on 28 September 2009;

(c) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 10 July 2006;

(d) The Second Optional Protocol to the International Covenant on Civil and Political Rights aimed at the abolition of the death penalty, on 15 June 2004.

4. The Committee welcomes the following legislative and policy measures taken by the State party:

* Adopted by the Committee at its fifty-second session (28 April–23 May 2014).

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(a) The adoption of the 2009 Criminal Code, which punishes racially motivated crimes;

(b) The adoption of measures to reform education and training so as to enable the acquisition of skills to meet the demands of the labour market;

(c) The increase in the minimum wage, in August 2013;

(d) The expansion of the capacity of the labour offices to implement the active employment policy;

(e) The adoption, in August 2013, of the first Concept on Prevention and Solution of Homelessness until 2020.

C. Principal subjects of concern and recommendations

Domestic application of the Covenant

5. Referring to the information provided by the State party on decisions made by the Constitutional Court, the Supreme Administrative Court and the Supreme Court on cases relating to economic, social and cultural rights, the Committee regrets that the State party did not specify which cases were based on the provisions of the Covenant. The Committee also regrets the lack of information on decisions adopted by lower courts and administrative instances that invoke the Covenant (art. 2, para. 1).

The Committee recommends that the State party provide in its next periodic report information on decisions taken by courts at all levels and by administrative instances that invoke the Covenant. The Committee also recommends that the State party raise awareness among members of the judiciary and the general public about the Covenant and the justiciability of economic, social and cultural rights. The Committee draws the State party's attention to its general comment No. 9 (1998) on the domestic application of the Covenant.

Charter on Fundamental Rights and Freedoms

6. The Committee notes with concern that several elements of the rights enshrined in the Covenant, such as those covered by article 11, are not recognized in the State party's Charter on Fundamental Rights and Freedoms (art. 2, para. 1).

Referring to the statement by the State party that economic, social and cultural rights are given the same emphasis as civil and political rights by the Government, the Committee recommends that the State party incorporate all economic, social and cultural rights into its Charter on Fundamental Rights and Freedoms.

National human rights institution

7. The Committee is concerned that the State party does not have a national human rights institution that fully complies with the principles relating to the status of national human rights institutions (the Paris Principles) (art. 2, para. 1).

The Committee recommends that the State party expedite the revision of the mandate and powers of the Ombudsperson, as contained in Law 349/1999 Coll. of 8th December 1999 and subsequent amendments, with a view to bring them into line with the Paris Principles (General Assembly resolution 48/134, annex). It also recommends that the State party ensure that the Ombudsperson has competence over matters relating to economic, social and cultural rights. Moreover, the Committee recommends that the State party take steps to seek accreditation of the office of the

Ombudsperson from the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

Non-discrimination

8. The Committee notes with concern that, while the Charter on Fundamental Rights and Freedoms prohibits discrimination on a broad range of grounds, the implementing law, the Anti-Discrimination Act 198/2009 Coll. of 23 April 2008, is more restrictive. The Committee is also concerned about the low number of cases of discrimination reported, which may be a consequence of this discrepancy (art. 2, para. 2).

The Committee recommends that the State party amend the Anti-Discrimination Act with a view to:

(a) Expanding the grounds of discrimination explicitly prohibited by the Act, in line with article 2, paragraph 2, of the Covenant, and taking into account the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights;

(b) Incorporating the Covenant rights not currently covered by the Anti-Discrimination Act, such as the right to strike or the right to enjoy the benefits of scientific progress and its applications;

(c) Providing for other remedies to victims of discrimination, such as administrative remedies, which are accessible, affordable, timely and effective.

The Committee also recommends that the State party increase public awareness of the prohibition of discrimination and of avenues of redress.

Discrimination against Roma

9. The Committee is concerned that the Roma continue to experience widespread discrimination in the areas of employment, education, health and housing, among others, despite the numerous plans and strategies implemented by the State party. The Committee also regrets that lack of reliable information on the situation of Roma communities in the State party. Moreover, the Committee is concerned at the findings of a survey conducted by the Institute of Sociology of the Academy of Sciences that the co-existence between the Roma and non-Roma population is perceived by most respondents as "bad" (art. 2, para. 2).

The Committee recommends that the State party adopt a human rights-based approach in addressing discrimination against the Roma, including by:

(a) Collecting information on the situation of the Roma, on the basis of self-identification;

(b) Clearly defining responsibilities and allocating adequate resources, including from the public budget, for the implementation of action plans and strategies, and assessing, on a regular basis, the effectiveness of measures taken;

(c) Replicating successful inclusion initiatives in other parts of the country;

(d) Taking steps to address Roma mistrust of public institutions, including by raising awareness of their economic, social and cultural rights and by involving Roma representatives in the formulation of solutions;

(e) Addressing negative prejudices and stereotypes, which are among the underlying causes of the systemic discrimination experienced by the Roma, and racial discrimination in areas such as employment and housing.

Discrimination against migrants

10. While noting the measures taken by the State party to combat racially motivated crimes and extremism, the Committee is concerned at discrimination-based offences committed against migrants in several areas, in particular:

(a) Employment, where they are often refused a written contract and are paid below the minimum wage;

(b) Exercise of their trade union rights, where they have reportedly not been able to demand the protection of their economic and social interests;

(c) Housing, where owners are reluctant to rent apartments to migrants, who are also often charged rents above market prices for substandard housing (art. 2, para. 2).

The Committee recommends that the State party:

(a) Raise awareness of the illegal nature of all acts of discrimination and of remedies available to migrants who are victims of discrimination;

(b) Take effective measures to enforce its anti-discrimination legislation in employment, including by monitoring working conditions in sectors where migrants are vulnerable to violation of their labour rights;

(c) Take steps to ensure that migrant workers can effectively exercise their right to participate in trade union activities and to obtain trade union protection in case of abuse and violation of their rights;

(d) Investigate allegations of any form of discrimination regarding access to housing, including rent levels and housing conditions.

Gender pay gap

11. The Committee is concerned at the gender pay gap in the State party owing to the vertical and horizontal gender segregation in the labour market and women's over-representation in part-time employment, despite women's achievements in higher education and the implementation of policy of equality of men and women. The Committee is also concerned that the State party has not implemented temporary special measures to accelerate women's representation in the field of employment, despite the fact that such measures are provided for in the State party's legislation (art. 3).

The Committee recommends that the State party:

(a) Take proactive measures to provide men and women with equal career opportunities by promoting the pursuit of education and training in fields that are traditionally dominated by one sex or the other;

(b) Conduct a survey and classification of work considered as being of equal value;

(c) Carry out awareness-raising campaigns to change society's perception of gender roles and facilitate women's re-entry into the labour market after career breaks;

(d) Expand the supply of affordable day-care services;

(e) Implement temporary special measures to increase women's representation in decision-making positions in the public sector.

The Committee refers the State party to its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.

Unemployment

12. The Committee is concerned that unemployment, especially among youth, remains considerable despite the measures taken by the State party (art. 7).

The Committee recommends that the State party continue its efforts to increase support for job seekers, in particular youth. It also recommends that the State party assess the impact of the economic and fiscal measures taken during the financial and economic crisis on the labour market and, in particular, on the enjoyment of the right to work. The Committee refers the State party to its general comment No. 18 (2005) on the right to work.

Minimum wage

13. The Committee notes with concern that, while the amount of the minimum wage is established through tripartite negotiations, the State party's legislation does not ensure the right to a remuneration that provides a decent living for workers and their families (art. 7).

The Committee recommends that that the State party guarantees in its legislation the right to a remuneration that provides a decent living for both workers and their families, in accordance with the provisions of article 7 (a) of the Covenant.

Social security

14. The Committee is concerned at the cuts to social security benefits, introduced by the State party under its austerity measures programme, despite the State party's claim that some of the cuts are temporary and will reversed. The Committee is also concerned that the protection for persons whose benefits have been discontinued is based on a material-needs approach with stringent qualifying conditions, a very low eligible income level for access to social allowances and low amounts of such allowances that are not in line with article 9 of the Covenant. The Committee is further concerned that the cuts, for example, to non-contributory benefits for very-low-income families with children, have a very negative impact on living conditions. Moreover, the Committee is concerned that the adequacy of the measures has been assessed primarily through aggregated statistical data, which do not provide a clear indication of the effects of the cuts on vulnerable groups (art. 9).

The Committee recommends that the State party: (a) reverse the cuts on social security benefits as soon as possible; (b) reconsider cuts to benefits from non-contributory schemes, insofar as they affect the most disadvantaged and marginalized groups; and (c) adopt a human rights-based approach in assessing the impact of cuts to benefits. The Committee refers the State party to the letter concerning austerity measures, which was sent to all States parties to the Covenant by the Chairperson of the Committee on 16 May 2012, and to its general comment No. 19 (2007) on the right to social security.

Health insurance for migrants

15. The Committee is concerned that migrants who do not hold a permanent residence permit, including dependents of migrants with permanent residence status, are not eligible to participate in the State party's contributory health insurance scheme. The Committee is further concerned at reports that migrants have been refused enrolment in private health insurance schemes or asked to pay prohibitive premiums, in contravention of the provisions of the Covenant and the State party's Anti-Discrimination Act (art. 9).

The Committee recommends that the State party open its contributory health insurance scheme to everyone without discrimination. The Committee also urges the State party to ensure that private insurance providers do not deny access to schemes

operated by them nor impose unreasonable eligibility conditions, with a view to ensuring the right to equal, adequate, affordable and accessible health care to all. The Committee recommends that the State party investigate complaints of violations of the right to health insurance and impose penalties where appropriate.

Social housing

16. The Committee is concerned that the State party has not put into place a comprehensive social housing system nor adopted a social housing law. The Committee is also concerned at the considerable number of homeless persons in the State party (art. 11).

The Committee recommends that the State party expedite the adoption of a social housing law and the establishment of a comprehensive social housing system and ensure that they:

(a) Are based on the right of every individual to adequate and affordable housing, with clearly defined standards of quality and habitability;

(b) Give due priority to disadvantaged and marginalized groups and individuals living in shelters or in uncertain and unfavourable conditions, by ensuring that eligibility criteria do not exclude them;

(c) Do not lead to segregation along racial lines, economic or social situation, or any other grounds of discrimination prohibited by the Covenant;

(d) Provide for resources that are proportionate to the unmet need for social housing, effective monitoring of the housing situation in the State party and an accountability framework for the implementation of policies and plans.

The Committee refers the State party to its general comment No. 4 (1991) on the right to adequate housing.

Forced evictions

17. The Committee is concerned that, under the State party's legislation, forced evictions may be carried out even if they render tenants homeless. The Committee is also concerned at reports of forced evictions, including of Roma, carried out without due process (art. 11).

The Committee recommends that the State party review its legislation and practices so that evictions do not result in individuals being rendered homeless or vulnerable to violation of other human rights and that, where those affected are unable to provide for themselves, adequate alternative housing is provided by the State party. It also recommends that the State party ensure that evictions are carried out in a manner warranted by the law and in compliance with international human rights standards, and that remedies are effectively provided to those affected by eviction orders. The Committee refers the State party to its general comment No. 7 (1997) on forced evictions.

De-institutionalization of persons with psychosocial disabilities and older persons

18. The Committee notes with concern the slow progress of de-institutionalization in the State party since the adoption in 2007 of Government resolution No. 127 on the "concept of support for the transformation of residential social services into different types of social services provided in a community of users and supporting social inclusion of the user". (arts. 12 and 10)

The Committee urges the State party to:

(a) Base the implementation of the Strategy for the Reform of Psychiatric Care (2014–2020) on improving the enjoyment of all human rights by persons with psychosocial disabilities, including their right to independent living and inclusion in the community, and invest adequate resources in the process;

(b) Integrate the lessons learned from pilot projects in deploying full-scale de-institutionalization;

(c) Adopt action plans with clear timelines for the development of social services at the regional and municipal levels;

(d) Develop community-based care for older persons.

Inclusive education for children with disabilities

19. The Committee is concerned that children with disabilities in the State party are still primarily schooled in specialized institutions, despite the implementation of the 2010–2014 Action Plan for Creating Equal Opportunities for Persons with Disabilities. The Committee is also concerned at reports that reasonable accommodation is not always provided to children with disabilities in mainstream education (arts. 13 and 2, para. 2).

The Committee recommends that the State party ensure that the new concept for better accessibility of schools at all levels of education for all children, including children with disabilities, fully promotes inclusive education for children with disabilities, including by allocating resources for the provision of reasonable accommodation and any additional professional support needed, and training teachers. It also recommends that inclusive education, the preferred model of education, as well as the obligation to provide reasonable accommodation be incorporated in the Education Act.

Education for Roma children

20. The Committee is deeply concerned that Roma pupils are still disproportionally placed in "practical schools", despite the issuance of the Methodological Recommendation for Ensuring Equal Opportunities in Education of Socially Disadvantaged Children. The Committee is also concerned at the high drop-out rates of Roma students at the various levels of education (arts. 13 and 2, para. 2).

The Committee urges the State party to take steps to:

(a) Abolish procedures that lead to the segregation of Roma pupils;

(b) Immediately discontinue the practice of placement, including temporary diagnostic stays, of pupils without disabilities in practical schools and the transfer of Roma pupils with inconclusive diagnoses from practical schools to mainstream schools;

(c) Phase out practical schools, as provided for in the National Action Plan for Inclusive Education;

(d) Provide support to mainstream schools for the education of socially disadvantaged pupils and Roma pupils from practical schools, and promote their retention in school, including by recruiting school personnel from among Roma communities.

The Committee recommends that the State party allocate an adequate budget, define clear responsibilities and a timeline, and secure the participation of Roma parents, associations and local communities in the implementation of these activities.

Cultural rights

21. The Committee regrets that the lack of information on the enjoyment of the right to enjoy the benefits of scientific progress and its applications did not allow the Committee to assess the implementation of that right (art. 15, para. 1 (b)).

The Committee requests the State party to include in its next periodic report information on how it assures the fulfilment of the right to enjoy the benefits of scientific progress and its applications.

D. Other recommendations

22. **The Committee encourages the State party to adopt a timeline for achieving the international commitment of 0.7 per cent of its gross national income (GNI) in official development assistance and to pursue a human rights-based approach in its development cooperation policy, fully incorporating the rights contained in the Covenant.**

23. **The Committee encourages the State party to consider ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

24. **The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, in particular among the members of Parliament, public officials, judicial authorities and civil society organizations, and to inform the Committee, in its next periodic report, about the steps taken to implement the recommendations.**

25. **The Committee encourages the State party to engage civil society organizations in constructive cooperation in the preparation and submission of its next periodic report.**

26. **The Committee invites the State party to update its common core document, as necessary, in accordance with the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6, chap. I).**

27. **The Committee requests the State party to submit its third periodic report, prepared in accordance with the revised reporting guidelines, adopted by the Committee in 2008 (E/C.12/2008/2), by 30 May 2019.**